

Senate File 2340

S-5058

1 Amend Senate File 2340 as follows:

2 1. Page 11, after line 3 by inserting:

3 <Sec. _____. Section 252F.3, subsection 5, Code
4 Supplement 2009, is amended to read as follows:

5 5. If a timely written response and request for a
6 court hearing is not received by the unit and a party
7 does not deny paternity, the administrator shall enter
8 an order in accordance with section 252F.4.

9 6. *a.* If a party contests the establishment of
10 paternity, the party shall submit, within twenty
11 days of service of the notice on the party under
12 subsection 1, a written statement contesting paternity
13 establishment to the unit. Upon receipt of a written
14 challenge of paternity establishment, or upon
15 initiation by the unit, the administrator shall enter
16 ex parte administrative orders requiring the mother,
17 child or children involved, and the putative father
18 to submit to paternity testing. Either the mother
19 or putative father may contest paternity under this
20 chapter.

21 *b.* The orders shall be filed with the clerk of the
22 district court in the county where the notice was filed
23 and have the same force and effect as a court order for
24 paternity testing.

25 *c.* The unit shall issue copies of the respective
26 administrative orders for paternity testing to the
27 mother and putative father in person, or by regular
28 mail to the last known address of each, or if
29 applicable, to the last known address of the attorney
30 for each.

31 *d.* If a paternity test is ordered under this
32 section, the administrator shall direct that inherited
33 characteristics be analyzed and interpreted, and shall
34 appoint an expert qualified as an examiner of genetic
35 markers to analyze and interpret the results. The
36 test shall be of a type generally acknowledged as
37 reliable by accreditation entities designated by the
38 secretary of the United States department of health and
39 human services and shall be performed by a laboratory
40 approved by an accreditation entity.

41 *e.* The party contesting paternity shall be provided
42 one opportunity to reschedule the paternity testing
43 appointment if the testing is rescheduled prior to the
44 date of the originally scheduled appointment.

45 *f.* An original copy of the test results shall
46 be filed with the clerk of the district court in the
47 county where the notice was filed. The child support
48 recovery unit shall issue a copy of the filed test
49 results to each party in person, or by regular mail
50 to the last known address of each, or if applicable,

1 to the last known address of the attorney for each.
2 However, if the action is the result of a request from
3 a foreign jurisdiction, the unit shall issue a copy of
4 the results to the initiating agency in that foreign
5 jurisdiction.

6 *g.* Verified documentation of the chain of custody
7 of the blood or genetic specimens is competent evidence
8 to establish the chain of custody. The testimony of
9 the appointed expert is not required. A verified
10 expert's report of test results which indicate a
11 statistical probability of paternity is sufficient
12 authenticity of the expert's conclusion.

13 *h.* A verified expert's report shall be admitted as
14 evidence to establish administrative paternity, and,
15 if a court hearing is scheduled to resolve the issue
16 of paternity, shall be admitted as evidence and is
17 admissible at trial.

18 *i.* If the verified expert concludes that the test
19 results show that the putative father is not excluded
20 and that the probability of the putative father's
21 paternity is ninety-five percent or higher, there shall
22 be a rebuttable presumption that the putative father
23 is the biological father, and the evidence shall be
24 sufficient as a basis for administrative establishment
25 of paternity.

26 (1) In order to challenge the presumption of
27 paternity, a party shall file a written notice of the
28 challenge with the district court within twenty days
29 from the date the paternity test results are issued or
30 mailed to all parties by the unit. Any challenge to
31 a presumption of paternity resulting from paternity
32 tests, or to paternity test results filed after
33 the lapse of the twenty-day time frame shall not be
34 accepted or admissible by the unit or the court.

35 (2) A copy of the notice challenging the
36 presumption of paternity shall be provided to any other
37 party in person, or by mailing the notice to the last
38 known address of each party, or if applicable, to the
39 last known address of each party's attorney.

40 (3) The party challenging the presumption of
41 paternity has the burden of proving that the putative
42 father is not the father of the child.

43 (4) The presumption of paternity may be rebutted
44 only by clear and convincing evidence.

45 *j.* If the verified expert concludes that the
46 test results indicate that the putative father
47 is not excluded and that the probability of the
48 putative father's paternity is less than ninety-five
49 percent, the administrator shall order a subsequent
50 administrative paternity test or certify the case to

1 the district court for resolution in accordance with
2 the procedures and time frames specified in paragraph
3 "i" and section 252F.5.

4 k. If the results of the test or the verified
5 expert's analysis are timely challenged as provided in
6 this subsection, the administrator, upon the request
7 of a party and advance payment by the contestant or
8 upon the unit's own initiative, shall order that an
9 additional test be performed by the same laboratory or
10 an independent laboratory. If the party requesting
11 additional testing does not advance payment, the
12 administrator shall certify the case to the district
13 court in accordance with paragraph "i" and section
14 252F.5.

15 l. When a subsequent paternity test is conducted,
16 the time frames in this chapter associated with
17 paternity tests shall apply to the most recently
18 completed test.

19 m. If the paternity test results exclude the
20 putative father as a potential biological father of
21 the child or children, and additional tests are not
22 requested by either party or conducted on the unit's
23 initiative, or if additional tests exclude the putative
24 father as a potential biological father, the unit shall
25 withdraw its action against the putative father and
26 shall file a notice of the withdrawal with the clerk
27 of the district court, and shall provide a copy of the
28 notice to each party in person, or by regular mail sent
29 to each party's last known address, or if applicable,
30 the last known address of the party's attorney.

31 n. Except as provided in paragraph "k", the unit
32 shall advance the costs of genetic testing. If
33 paternity is established and paternity testing was
34 conducted, the unit shall enter an order or, if the
35 action proceeded to a court hearing, request that the
36 court enter a judgment for the costs of the paternity
37 tests consistent with applicable federal law. In a
38 proceeding under this chapter, a copy of a bill for
39 genetic testing shall be admitted as evidence without
40 requiring third-party foundation testimony and shall
41 constitute prima facie evidence of the amount incurred
42 for genetic testing.>

43 2. By renumbering as necessary.

COMMITTEE ON JUDICIARY
KEITH KREIMAN, CHAIRPERSON